

Application Serial No.: 10/630,620
Group Art Unit No.: 2636
Applicant: David A. Vogel

REMARKS/ARGUMENTS

Claims 1 through 38 and 40 through 51 are pending in the instant application with claims 49 through 51 being newly added. Claim 1 is independent, and claims 2 through 38, 40, and 49 depend from claim 1. Claim 41 is independent, and claims 42 through 48 depend from claim 41. Claim 50 is a newly added independent claim. Claim 51 depends from claim 50.

Due to a typographical error, the claims in the application were numbered incorrectly and the application unfortunately was filed without any claim 39. Applicant has herein cancelled claim 39.

In the Action, claims 1 through 25, 27 through 31, 33 through 34, 38, and 40 through 48 are rejected as being unpatentable over United States Patent No. 5,072,362 to Lilienthal (hereinafter "Lilienthal") in view of United States Patent No. 5,598,164 to Reppas et al. (hereinafter "Reppas"). Applicant presumes this rejection to be under 35 U.S.C. § 103(a) as it is not stated in the Action.

In response, applicant submits that the cited and relied upon Lilienthal and Reppas do not support a prima facie rejection of obviousness under 35 U.S.C. § 103(a). Applicant submits that Lilienthal alone or in combination with Reppas, neither discloses nor suggests the claimed present invention. Applicant respectfully traverses this rejection on the grounds that there is no disclosure, suggestion or motivation for the modification argued by the Office, and the combination of

Application Serial No.: 10/630,620

Group Art Unit No.: 2636

Applicant: David A. Vogel

Lilienthal and Reppas, even if technically feasible, which is not admitted as possible, do not render obvious claims 1 through 25, 27 through 31, 33 through 34, 38, and 40 through 48 .

Claim 1 provides for a controller for cooperating with a vessel's existing horn to automatically generate sound navigational signals. The controller has an installation-type detector for determining a controller installation type.

Lilienthal discloses an apparatus for controlling a vessel's horn. The apparatus has a keypad. The keypad, upon being manually actuated, will automatically repeat a horn signal for a predetermined period of time.

The Examiner acknowledges at page 2 that Lilienthal does not specifically mention any installation-type detector. The Office Action further states that Reppas teaches a number of detectors which could be used for detecting obstacles at column 5, line 1 through 21.

Applicant initially requested an Examiner's Interview with Examiner Hung T. Nguyen via telephone. Thereafter, when applicant did not receive any response to applicant's telephone request for the Examiner's Interview, the applicant contacted the Examiner's Supervisor. In response, applicant then received a call from Examiner Nguyen. Applicant expresses appreciation that Examiner Nguyen granted an Examiner's Interview on February 7, 2005.

During the Examiner's Interview, applicant requested clarification in order to advance the prosecution of the instant

application. Applicant specifically requested that the Examiner specify where in Reppas there is disclosure for the Examiner's allegation that Reppas has the installation-type detector for determining a controller installation type of claim 1. The Examiner did not point it out in Reppas any installation type detector.

Reppas discloses a vehicle obstacle avoidance system. This system uses a Doppler radar detector or a sensor to detect obstacles outside of the window. (See col. 5, lines 5 through 21). The sensor does not communicate with any existing controls. Instead, the sensor in Reppas determines a distance to an obstacle, nothing more. The sensor detects or senses the presence of objects outside of a window of the vehicle by the distance and then signals an alarm. The sensor clearly does not detect, or have a detector for detecting, what type of installation there exists. The Doppler radar detector or sensor of Reppas is clearly not the same as the installation-type detector of claim 1 and performs a completely different function.

Thus, Lilienthal, Reppas, and moreover the combination thereof, fail to disclose or suggest any controller with an installation-type detector for determining a controller installation type. The cited and relied upon sensor of Reppas is clearly and simply not the installation-type detector of claim 1. Moreover, one skilled in the art could not combine these two teachings with success.

If one skilled in the attempted to combine the sensor of Reppas with the apparatus for controlling a vessel's horn of

Application Serial No.: 10/630,620
Group Art Unit No.: 2636
Applicant: David A. Vogel

Lilienthal, the resulting combination would not function at all as claimed, let alone determine a controller installation type or provide any user functionality, as these references deal with non-analogous devices that perform completely different functions.

The teaching or suggestion to make the claimed combination and a reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. See In re Vaeck, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

Moreover, to support the conclusion that the claimed invention is directed to obvious subject matter, either the references must expressly or impliedly suggest the claimed invention or the Office must present a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the references. See Ex parte Clapp, 227 USPQ 972, 973 (Bd. Pat. App. & Inter. 1985). The Office does not support the rejection, let alone show any reasonable expectation of success for the modification.

Instead, the Office is using impermissible hindsight to support the rejection. Moreover, one simply could not combine the references with any reasonable expectation of success whatsoever. Reconsideration and withdrawal of the 35 U.S.C. § 103(a) rejection of claim 1 are requested.

Claims 2 through 25, 27 through 31, 33 through 34, 38 and 40 are all patentable for at least the reasons discussed above for claim 1. Reconsideration and withdrawal of the rejection of these claims are also respectfully requested.

Independent claim 41 provides for a method for

Application Serial No.: 10/630,620
Group Art Unit No.: 2636
Applicant: David A. Vogel

automatically generating sound navigational signals. The method has the steps of providing a horn or a signaling device with the signaling device having a controller with an installation-type detector for determining a controller installation type via the installation-type detector.

Lilienthal, Reppas, and the cited combination thereof, do not disclose or suggest any method with the step of providing a horn or a signaling device with the signaling device having a controller with an installation-type detector, let alone one for determining a controller installation type. As mentioned, Reppas discloses a sensor to detecting a distance of objects outside of a vehicle, and once sensed an apparatus issues a warning to a driver. (See column 4, line 35 or step 130 at Fig. 3).

Applicant states that the Office, not the applicant, has the initial duty of supplying a factual, not hypothetical, basis for a rejection, and may not resort to hindsight reconstruction to supply deficiencies in the factual basis. See In re Warner, 389 U.S. 1057 (1968). The Office has not met its burden. Thus, claim 41 is patentable over the cited combination of references.

Claims 42 through 48 depend on claim 41. Reconsideration and withdrawal of the rejection of claims 42 through 48 are respectfully requested for at least the reasons discussed above for claim 41.

In the Action, claim 26 is rejected as being unpatentable over Lilienthal in view of Reppas, further in view of United States Patent No. 5,671,387 to Jacobs, et al. (hereinafter

Application Serial No.: 10/630,620
Group Art Unit No.: 2636
Applicant: David A. Vogel

"Jacobs"). Applicant again presumes this rejection to be under 35 U.S.C. § 103(a) as it is not stated in the Action.

Claim 26 depends from claim 1 and further provides a miswire protection circuit for protecting the controller from improper installation.

Jacobs discloses a method of labeling a number of devices connected to a data bus. The method has the steps of providing the number of devices operating on a peer basis, sending a first trial address from a first device and waiting for an acknowledgement from any other device connected to the data bus. If the acknowledgment is received from a second device, the method has the step of sending out a second trial address. The method then has the step of waiting for a second acknowledgement. If a second acknowledgement is received, the method has the step of uniquely labeling the second device and repeating the method for labeling other devices connected to the data bus.

The number of devices include a number of panels disposed in a panel assembly configured to be placed over a window. The window controls an amount of light that is blocked or alternatively transmitted through the window. The method has the step that a controller controls a roller that moves the desired panel of the panel assembly over the window. The controller further has a voltage regulator that provides power, and the voltage regulator is protected against miswire by a miswire and over voltage circuit.

Lilienthal, Reppas, Jacobs and the combination thereof fail

Application Serial No.: 10/630,620

Group Art Unit No.: 2636

Applicant: David A. Vogel

to disclose or suggest the feature of a miswire protection circuit for protecting the controller from improper installation. Jacobs discloses that the controller has a voltage regulator. Jacobs discloses that the voltage regulator connected to the controller is protected against miswire by a miswire and over voltage circuit, not the controller.

Lilienthal, Reppas, Jacobs and the cited combination further fail to disclose or suggest the feature of a controller with an installation-type detector for determining a controller installation type. The Doppler radar detector or sensor of Reppas (for determining a distance of an object outside of an automobile) is clearly not the same as the installation-type detector of claim 1 and performs a completely different function.

Moreover, one skilled in the art could not combine the teachings of Lilienthal, Reppas, and Jacobs with any success, as the radar detector of Reppas for combining with the apparatus of Lilienthal would simply not function at all, let alone as claimed. The Reppas sensor does not determine any controller installation type and is a non-analogous device that performs a completely different function than the present invention or to provide user functionality. Reconsideration and withdrawal of the rejection of claim 26 are respectfully requested.

In the Action, claims 32, and 35 through 37 were rejected as being unpatentable over Lilienthal in view of Reppas, further in view of United States Patent No. 4,896,623 to Seibert, et al. (hereinafter "Seibert"). Applicant again presumes this rejection to be under 35 U.S.C. § 103(a) as it is not stated in

Application Serial No.: 10/630,620

Group Art Unit No.: 2636

Applicant: David A. Vogel

the Action.

Seibert discloses a signal device. The signal device has a telescoping staff and a flag that is connectable to the telescoping staff. Both the telescoping staff and the flag may be folded for insertion into a compact case. The flag has a high reflectivity to be visible over great distances.

In an emergency situation, the flag springs out of the compact case to signal that help is needed. In a non-emergency situation, the flag remains in a compact manner in the compact case. Applicant submits that Seibert is completely improperly cited and non-analogous art for combining with the primary reference. Applicant submits that the Office withdraw the finality of any future Office Action based on this improperly cited art.

Lilienthal, Reppas, Seibert, and the cited combination thereof, fail to disclose or suggest any controller with an installation-type detector for determining a controller installation type as claimed in claim 1.

The sensor of Reppas is clearly not an analogous device for combining with the apparatus of Lilienthal and does not determine any controller installation type. Thus, claim 1 is patentable over the combination of references.

Claims 32 and 35 through 37 are patentable for at least the reasons discussed above for claim 1. Reconsideration and withdrawal of the rejection of claims 32 and 35 through 37 are respectfully requested.

Application Serial No.: 10/630,620
Group Art Unit No.: 2636
Applicant: David A. Vogel

Newly added claim 49, depends from claim 1, and is patentable over the cited references as none of the references disclose or suggest any installation type detector having a circuit, let alone one being connected to the controller having program instructions for the circuit to determine the controller installation type. Further, none of the references disclose or suggest any such installation-type detector and controller selecting a sound navigational signaling pattern with the selection being dependent upon a configuration of the vessel type.

Newly added independent claim 50 is patentable over each cited reference and any combination of the same. No cited reference discloses or suggests any controller with any user interface functionality detector, let alone one for determining a controller installation type with a user interface with a mode selector having one or more mode settings and a microprocessor for communicating with the mode selector and the horn to facilitate the selective control of the horn.

New claim 51, depends from claim 50, and is further patentable as none of the cited references disclose or suggest any user interface functionality detector, let alone one for determining a controller installation type from a number of controller installation types with each of the controller installation types being different from one another.

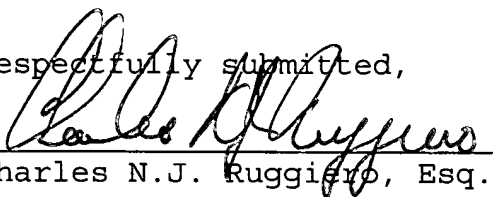
In view of the foregoing, applicant respectfully submits that claims 1 through 38 and 40 through 51 in this application patentably distinguish over the cited prior art and the cited

Application Serial No.: 10/630,620
Group Art Unit No.: 2636
Applicant: David A. Vogel

combinations of the same. Accordingly, applicant respectfully requests favorable reconsideration and withdrawal of the rejections of the claims, and that the application be passed to immediate allowance.

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Respectfully submitted,


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